REMARKS

This Amendment, submitted in reply to the Office Action dated July 15, 2004, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 2 and 3 are all the claims pending in the application.

I. Preliminary Matter

As a preliminary matter, Applicant respectfully requests that the Examiner approve the drawings filed August 5, 2003.

II. Claim Rejections under 35 U.S.C. § 112

Claims 2 and 3 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2 and 3 have been amended as indicated above. Applicant submits that the amendments to the claims should resolve the § 112 rejection, consequently the § 112 rejection should be withdrawn.

III. Claim Rejections under 35 U.S.C. § 102

Claims 2 and 3 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Morita et al. (U.S. Pub. No. 2004/0061016, hereinafter "Morita '016").

Applicant hereby submits a verified English translation of the priority document JP 11/38663, thus removing Morita '016 as a reference. Morita '016 can be removed as a reference

by perfecting the claim to foreign priority based on Applicant's priority documents (JP 11/38663 or PCT/JP00/00738). The filing date of the parent application for Morita '016 is May 21, 2001 which is after the filing date (February 17, 1999 or February 10, 2000) of the foreign priority documents for the current application. Accordingly, Morita '016 can be eliminated as a prior art reference. Further, there is support in the priority document for the subject matter of claims 2 and 3.

IV. Claim Rejections under 35 U.S.C. § 103

Claims 2 and 3 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Morita et al. (U.S. Patent No. 6,236,539, hereinafter "Morita '539").

In rejecting claims 2 and 3, the Examiner states that to make the members extend from a mounting portion as shown in Morita '539 Fig. 4 would have been an obvious matter of design choice.

However, merely stating that an element is mere design choice is insufficient to establish an obviousness rejection.

> The use of per se rules, while undoubtedly less laborious than a searching comparison of the claimed invention -- including all its limitations -- with the teachings of the prior art, flouts section 103 and the fundamental case law applying it. Per se rules that eliminate the need for fact-specific analysis of claims and prior art may be administratively convenient for PTO examiners and the Board. Indeed, they have been sanctioned by the Board as well. But reliance on per se rules of obviousness is legally incorrect and must cease. Any such administrative convenience is simply inconsistent with section 103, which, according to Graham and its progeny, entitles an applicant to issuance of an otherwise proper patent unless the PTO establishes that the invention as claimed in the application is obvious over cited prior art, based on the specific comparison

> of that prior art with claim limitations. We once again hold today that our precedents do not establish any per se rules of obviousness.... *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995).

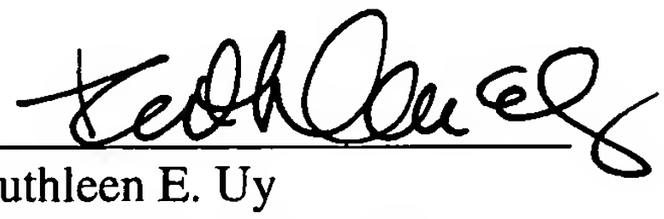
Since the Examiner has not shown where the elements of claims 2 and 3 are shown in the art, claims 2 and 3 should be deemed patentable. Moreover, there is no indication that Morita '539 teaches the elements of claims 2 and 3. In fact, it is unclear how one of ordinary skill would even modify the Fig. 40-41 embodiment with the connects of the Fig. 4 embodiment, because the latter teaches the typical U-shaped arrangement. It would thus appear that modifying the Fig. 40-41 embodiment as suggested by the Examiner would remove any obtuse angle formed between the mounting portion and the elastic arm.

V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Ruthleen E. Uy
Registration No. 51,361

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

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